IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

Crl.MC.No. 525 of 2007()

AGAINST THE ORDER IN CRMP 4301/06 IN
CRA.687/2006 of ADDL. SESSIONS COURT, ALAPPUZHA

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PETITIONER: PETITIONER

JOGGY JOSEPH,S/O JOSEPH,
AGED 53 YEARS,
CHERUKARA HOUSE, AVALOOKUNNU P.O.,
SUBRAMANAYAPURAM ALAPPUZHA.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS: RESPONDENTS

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1. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

2. PHILIPOSE NARAKATHARA, S/O MATHEW,
NARAKATHARA VEEDU,
AVALOOKUNNU P.O.,ALAPPUZHA.

R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/02/2007, A/W. CRMC 526 & CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 525, 526, 527 &
528 of 2007

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Dated this the 28th day of February, 2007

O R D E R

The petitioner faced indictment in four different prosecutions under Section 138 of the N.I. Act. He was found guilty, convicted and sentenced by the learned Magistrate in all the four case. He has now preferred appeals against the said verdicts of guilty, convictions and sentences. The learned Sessions Judge admitted the appeals and directed suspension of sentence, subject to conditions. The conditions imposed include the condition that the petitioner must deposit portions of the cheque amounts within a period of two months.

2. The petitioner claims to be aggrieved by the impugned order. He contends that the condition imposed is too onerous and difficult for him to comply. If insistence were made on immediate compliance with the condition, that would virtually affect his right of appeal and oblige him to undergo the sentences even before the appeals are considered on merits.

3. Heard the learned counsel for the petitioner. The jurisdictional competence of the appellate court to direct suspension

of sentence subject to condition is not disputed, nor is there a contention urged before me with the help of the impugned judgments that in the facts and circumstances of these cases insistence on such deposit is unjust or perverse. The petitioner has been directed to deposit an amount of Rs.10,000/- Rs.1,00,000/-, Rs.60,000/- and Rs.40,000- in these four cases, where the amount of compensation directed to be paid is Rs.25,000/- Rs.7.5 Lakhs, Rs. 3 lakhs and Rs. 2 lakhs respectively.

4. There is no vice vitiating the condition imposed by the learned Magistrate. However, I take note of the submission of the learned counsel for the petitioner that a short further time may be granted to the petitioner to make the payment and avoid the unenviable predicament of the sentences being executed during the pendency of the appeals.

5. These Crl.M.Cs. are accordingly allowed. The petitioner shall have time till 264.2007 to deposit the amounts as directed by the learned appellate Judge, but subject to the condition that he pays half the amount, which is directed to be paid in each case, on or before 26.3.2007. There shall be no further extension of time.

(R. BASANT)
Judge

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